IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Bail Appl..No. 4144 of 2007()

ST.399/2004 of J.M.F.C. - III, KOCHI

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PETITIONER/ACCUSED

RAJEEV P.S.,
S/O SUKUMARAN NAIR, AAYILYAM,
BGRA 24, INDIRA NAGAR ROAD,
PEROORKADA, THIRUVANANTHAPURAM.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA

RESPONDENTS: STATE

THE STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY P.P. SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 4144 OF 2007

Dated this the 10th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. He has not appeared before the learned Magistrate. Reckoning him as an absconding accused, the learned Magistrate has issued warrants of arrest and coercive processes against the petitioner. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. No summons or intimation was ever served on him. He is willing to appear before the learned Magistrate and co-operate with the expeditious disposal of the case. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in

accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and

expeditiously – on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge

(R. BASANT, JUDGE)

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